

## Article 4A.

### Withholding; Estimated Income Tax for Individuals.

#### § 105-163.1. Definitions.

The following definitions apply in this Article:

- (1) Compensation. – Consideration a payer pays to any of the following:
  - a. A nonresident individual or nonresident entity for personal services performed in this State.
  - b. An ITIN holder who is a contractor and not an employee for services performed in this State.
- (2) Repealed by Session Laws 2009-476, s. 1, effective for taxable years beginning on or after January 1, 2010.
- (3) Repealed by Session Laws 2014-3, s. 14.4(a), effective for taxable years beginning on or after January 1, 2014.
- (4) Employee. – An individual, whether a resident or a nonresident of this State, who performs services in this State for wages or an individual who is a resident of this State and performs services outside this State for wages. The term includes an ordained or licensed member of the clergy who elects to be considered an employee under G.S. 105-163.1A, an officer of a corporation, and an elected public official.
- (5) Employer. – A person for whom an individual performs services for wages. In applying the requirements to withhold income taxes from wages and pay the withheld taxes, the term includes a person who:
  - a. Controls the payment of wages to an individual for services performed for another.
  - b. Pays wages on behalf of a person who is not engaged in trade or business in this State.
  - c. Pays wages on behalf of a unit of government that is not located in this State.
  - d. Pays wages for any other reason.
- (6) Individual. – Defined in G.S. 105-153.3.
- (6a) ITIN contractor. – An ITIN holder who performs services in this State for compensation other than wages.
- (6b) ITIN holder. – A person whose taxpayer identification number is an Individual Taxpayer Identification Number (ITIN).
- (7) Miscellaneous payroll period. – A payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.
- (7a) Nonresident contractor. – Either of the following:
  - a. A nonresident individual who performs in this State for compensation other than wages any personal services in connection with a performance, an entertainment, an athletic event, a speech, or the creation of a film, radio, or television program.
  - b. A nonresident entity that provides for the performance in this State for compensation of any personal services in connection with a performance, an entertainment, an athletic event, a speech, or the creation of a film, radio, or television program.
- (8) Nonresident entity. – Any of the following:
  - a. A foreign limited liability company, defined using the same definition for the term "foreign LLC" in G.S. 57D-1-03, that has not obtained a

- certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General Statutes.
- b. A foreign limited partnership as defined in G.S. 59-102 or a general partnership formed under the laws of any jurisdiction other than this State, unless the partnership maintains a permanent place of business in this State.
  - c. A foreign corporation, as defined in G.S. 55-1-40, that has not obtained a certificate of authority from the Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes.
- (9) Pass-through entity. – Defined in G.S. 105-228.90.
  - (10) Payer. – A person who, in the course of a trade or business, pays compensation to any of the following:
    - a. A nonresident individual or a nonresident entity compensation for personal services performed in this State.
    - b. An ITIN holder who is a contractor and not an employee for services performed in this State.
  - (11) Payroll period. – A period for which an employer ordinarily pays wages to an employee of the employer.
  - (11a) Pension payer. – A payor or a plan administrator with respect to a pension payment under section 3405 of the Code.
  - (11b) Pension payment. – A periodic payment or a nonperiodic distribution as those terms are defined in section 3405 of the Code.
  - (12) Taxable year. – Defined in section 441(b) of the Code.
  - (13) Wages. – The term has the same meaning as in section 3401 of the Code.
  - (14) Withholding agent. – An employer, a pension payer, or a payer. (1959, c. 1259, s. 1; 1967, c. 716, s. 3; 1973, c. 476, s. 193; 1977, c. 657, s. 5; 1979, c. 801, s. 70; 1983, c. 713, ss. 79, 82; 1985, c. 394, s. 1; c. 656, s. 7; 1985 (Reg. Sess., 1986), c. 853, s. 1; 1987, c. 778, s. 1; 1987 (Reg. Sess., 1988), c. 1015, s. 5; 1989, c. 36, s. 5; c. 728, s. 1.40; 1989 (Reg. Sess., 1990), c. 945, s. 5; c. 981, s. 6; 1991, c. 689, s. 255; 1991 (Reg. Sess., 1992), c. 922, s. 7; 1993, c. 12, s. 9; c. 354, s. 15; 1997-6, s. 6; 1997-109, ss. 1, 2, 4; 1998-162, ss. 1, 2; 1999-414, ss. 1, 2; 2000-126, s. 2; 2003-416, s. 4(b); 2009-476, s. 1; 2013-157, s. 29; 2014-3, s. 14.4(a); 2016-5, s. 2.3; 2018-5, s. 38.1(d).)